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EXAMINER
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SMITH, CHENECA

ART UNIT	PAPER NUMBER
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2109

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/822,313

Applicant(s)

BUCHER ET AL.

Examiner

Cheneca P. Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 4/12/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 6/20/2005
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: Section [029], line 6 states "to describe to describe" which should be "to describe".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 4-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "the follow-up service" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the follow-up service" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "said later time" in line 1. It also recites the limitation "the follow-up service" in line 3. There is insufficient antecedent basis for these limitations in the claim.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 6-19, and 21-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Cheng et al. (US Patent 6151643).

As to claim 1, Cheng teaches a method of communicating with a remote service distribution system to obtain software to be installed in a local device, comprising:

at a computer associated with the local device, storing a data structure that define hardware resources and software resources of the local device (see Figure 7, 709 and column 10, lines 55-60),

establishing communication with the remote service distribution system (see column 3, lines 25-29),

requesting a service from the remote service distribution system, the service including transmission of the software to the local device, wherein information of the data structure that defines the hardware resources and software resources of the local device is transmitted to the remote service distribution system (column 7, lines 55-64).

As to claim 2, Cheng teaches the method of claim 1, wherein the computer associated with the local device comprises a network appliance that operates as a gateway to the Internet for the local device (column 3, lines 27-29).

As to claim 3, Cheng teaches the method of claim 1, wherein a follow-up service associated with the software is available from the remote service distribution system at a later time than the service, the method further comprising storing information at the computer specifying that the follow-up service is available (column 5, lines 24-30).

As to claim 4, Cheng teaches the method of claim 1, wherein the follow-up service comprises an upgrade of the software (see column 5, lines 18-21).

As to claim 6, Cheng teaches the method of claim 1, further comprising reestablishing communication with the remote service distribution system at said later time based on the information specifying that the follow-up service is available such that the follow-up service can be provided to the local device (see column 5, lines 24-32).

As to claim 7, Cheng teaches the method of claim 1, wherein reestablishing communication is performed automatically and without user initiation thereof (see column 20, lines 4-13).

As to claim 8, Cheng teaches a service distribution system configured to interface with a remote device in order to provide services, the system comprising:

a network interface module configured to provide an interface to the remote device (see column 10, lines 8-12),

at least one service available to the remote device (see column 6, lines 26-28),

a resource analysis module configured to analyze resources on the remote device in relation to the at least one service (see Figure 10, 907 and column 13, lines 61-63).

As to claim 9, Cheng teaches the service distribution system of claim 8, further comprising a storage device that stores software packages pertaining to the at least one service (see Figure 1, 103 and column 6, lines 31-34).

As to claim 10, Cheng teaches the service distribution system of claim 8, wherein the network interface module is an Internet interface that connects to the Internet and provides a public interface, wherein the public interface provides limited access to the service distribution system (see Figure 1, 104 and column 3, lines 27-29).

As to claim 11, Cheng teaches the service distribution system of claim 8, wherein the network interface module is an Internet interface that connects to the Internet and provides a private interface, wherein the private interface provides secure access to an outlet for purposes of uploading additional software to the service distribution system (see column 6, lines 16-20 and lines 40-45).

As to claim 12, Cheng teaches the service distribution system of claim 8, wherein the network interface module is connected to the Internet via a data connection (see column 13, lines 12-17).

As to claim 13, Cheng teaches the service distribution system of claim 8, wherein the at least one service includes both initial services and follow-up services, wherein initial services are performed immediately upon request and follow-up services are performed at a later time (see column 5, lines 10-17 and lines 24-32).

As to claim 14, Cheng teaches the service distribution system of claim 13, wherein the initial services include the ability to download software packages to operate on the remote device (see column 3, lines 41-45).

As to claim 15, Cheng teaches the service distribution system of claim 13, wherein the follow-up services include automatically updating an initial service on a

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remote device when an update to the initial service becomes available (see column 7, lines 5-8).

As to claim 16, Cheng teaches the service distribution system of claim 8, wherein the resource analysis module is configured to identify hardware resources available on the remote device, wherein the hardware resources are analyzed in relation to the at least one service to determine which services are compatible with the remote device (see column 13, lines 55-57).

As to claim 17, Cheng teaches the service distribution system of claim 8, wherein the resource analysis module is configured to identify software resources available on the remote device, wherein the software resources are analyzed in relation to the at least one service to determine which services would enhance the identified software resources (see column 7, lines 46-50).

As to claim 18, Cheng teaches a method for delivering services to a remote device through a service distribution system, comprising:

establishing a connection with a remote device (see column 3, lines 25-29);

identifying hardware resources on the remote device (see column 13, lines 55-57);

displaying a list of available services that are compatible with the hardware resources on the remote device (see column 14, line 66 and column 15, lines 1-4);

receiving a request to perform at least one service including at least one initial service (see column 15, line 14),

performing the at least one service (see column 15, lines 21-27).

As to claim 19, Cheng teaches the method of claim 18, further comprising reestablishing a connection with the remote device and performing any requested follow-up services (see column 5, lines 24-32).

As to claim 21, Cheng teaches the method of claim 18, wherein establishing a connection with a remote device further comprises providing a public interface that is publicly accessible over the Internet (see column 6, lines 25-28) and establishing a connection with a remote device via the public interface (see column 3, lines 27-29).

As to claim 22, Cheng teaches the method of claim 18, wherein identifying the hardware resources available on the remote device further comprises accessing a data structure associated with remote device defining the hardware resources available on the remote device (see Figure 7, 709, column 3, lines 27-29, and column 10, lines 55-60).

As to claim 23, Cheng teaches the method of claim 18, wherein displaying a list of available services that are compatible with the hardware resources available on the remote device further comprises analyzing available services in relation to the hardware resources available on the remote device (see column 14, lines 66-67, and column 10, lines 1-4).

As to claim 24, Cheng teaches the method of claim 18, wherein the request to perform at least one service is received at the service distribution system from the remote device via the Internet (see Abstract, which describes how users of the client computer connects to the service provider computers, where the users then select updates for installation).



As to claim 25, Cheng teaches the method of claim 18, wherein performing the at least one initial service comprises transmitting at least one software package to the local device (see Abstract, which describes how the selected updates are downloaded from the software vendor computer systems and installed on the client computers).

As to claim 26, Cheng teaches at a service distribution system, a method for suggesting enhancement services to a remote device comprising:

- establishing a connection with the remote device (see column 3, lines 25-29);
- identifying resources available on the remote device (see column 13, lines 55-57);

- analyzing resources available on the remote device in relation to services available on the service distribution system (see Figure 10, 907 and column 13, lines 61-63),

- and displaying a list of services that would enhance the resources available on the remote device (see column 14, line 66 and column 15, lines 1-4).

As to claim 27, Cheng teaches the method of claim 23, wherein establishing a connection with the remote device further includes providing an interface that is publicly accessible over the Internet (see column 6, lines 25-28) and establishing a connection with a remote device via the interface (see column 3, lines 27-29).

As to claim 28, Cheng teaches the method of claim 23, wherein identifying hardware and software resources available on the remote device further includes the acts of:

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analyzing whether the remote device has previously connected to the service distribution system (see column 15, lines 37-41 and lines 60-62);

if the remote device has previously connected to the service distribution system, identifying software resources available on the remote device and accessing a data structure including available hardware resources of the remote device (see column 15, lines 63-66);

if the remote device has not previously connected to the service distribution system, identifying software and hardware resources available on the remote device by receiving information specifying the software and hardware resources from the remote device (see column 16, lines 6-8).

As to claim 29, Cheng teaches the method of claim 23, wherein analyzing the hardware and software resources available on the remote device in relation to a set of services available on the service distribution system further comprises eliminating services which would not be compatible with hardware resources available on the remote device (see column 8, lines 18-20) and determining if any of the non-eliminated services would enhance software resources on the remote device (see column 8, lines 29-31).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng et al. (US Patent 6151643).

As to claim 5, Cheng teaches the limitations of claim 1, but does not specifically teach that the follow-up service comprises an extension module of the software. However, it is well known in the art that upgrades to software typically include software patches and other revisions, service packs, or new releases that will provide enhanced functionality. Therefore, it would have been obvious to one having ordinary skill in the art that an upgrade to the software would also contain an enhancement of the software disclosed in Cheng's invention.

8. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng et al (US Patent 6151643) in view of Chiles et al (US Patent 6167567).

As to claim 20, Cheng discloses a method for identifying the hardware resources of a remote device, but does not specifically teach prompting the user to manually input resources not fully identified. Chiles is cited to teach an automatic software updating method similar to Cheng's. Chiles teaches a method where the products configuration data (see Figure 6, 610) includes configuration settings that have been automatically identified, as well as configuration settings which the user, at the client PC, has entered through configuration application (see Figure 1, 3 and column 19, lines 50-54). It would have been obvious to one having ordinary skill in the art to combine the teachings of Cheng and Chiles because Chiles provides a more efficient method that simplifies the

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task of maintaining client computers, particularly in terms of correctly updating their client software.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheneca P. Smith whose telephone number is (571) 270-1651. The examiner can normally be reached on Monday-Friday 7:30-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xiao Wu can be reached on (571) 272-7761. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

2/2/2007  
C.S.

  
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SUPERVISORY PATENT EXAMINER